



Board of Adjustment Case Report

City of Raleigh
Department of City Planning
One Exchange Plaza
Raleigh, NC 27601
(919) 996-2639
www.raleighnc.gov

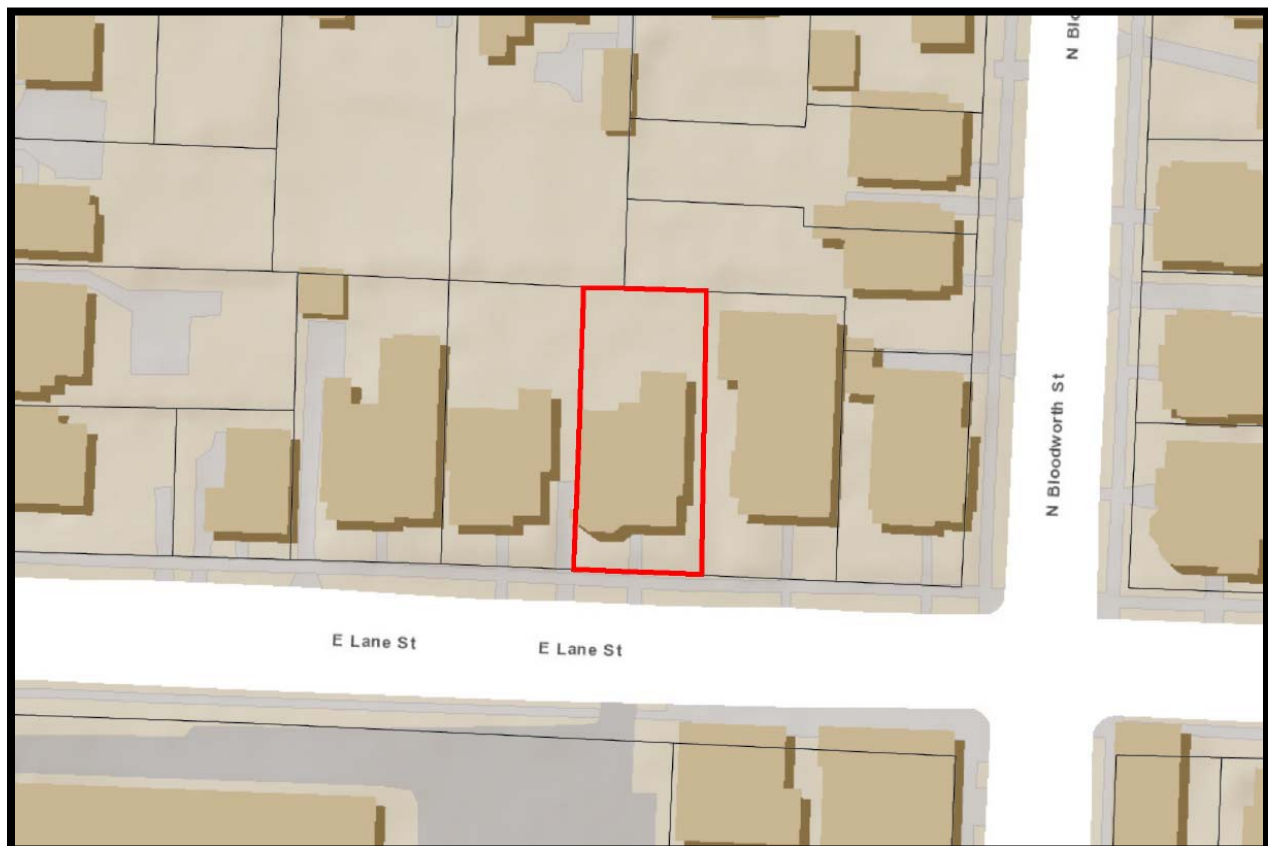
Case File: A-14-18

Property Address: 319 E. Lane Street

Property Owner: Roger That Roger, LLC

Project Contact: Isabel Mattox

Nature of Case: Request for a Special Use Permit pursuant to Sections 10.2.9., 10.3.2. and 10.3.6. of the Unified Development Ordinance to enlarge the existing 4-unit apartment building by up to 25% as it constitutes a non-conforming use for density purposes. The proposed expansion would enlarge the total gross floor area of the apartment building by 793 square feet increasing it from 3,134 square feet to 3,917 square feet of gross floor area and the total number of dwelling units would not increase on the .13 acre parcel zoned Residential-10 and Historic Overlay District-General and located at 319 E. Lane Street.



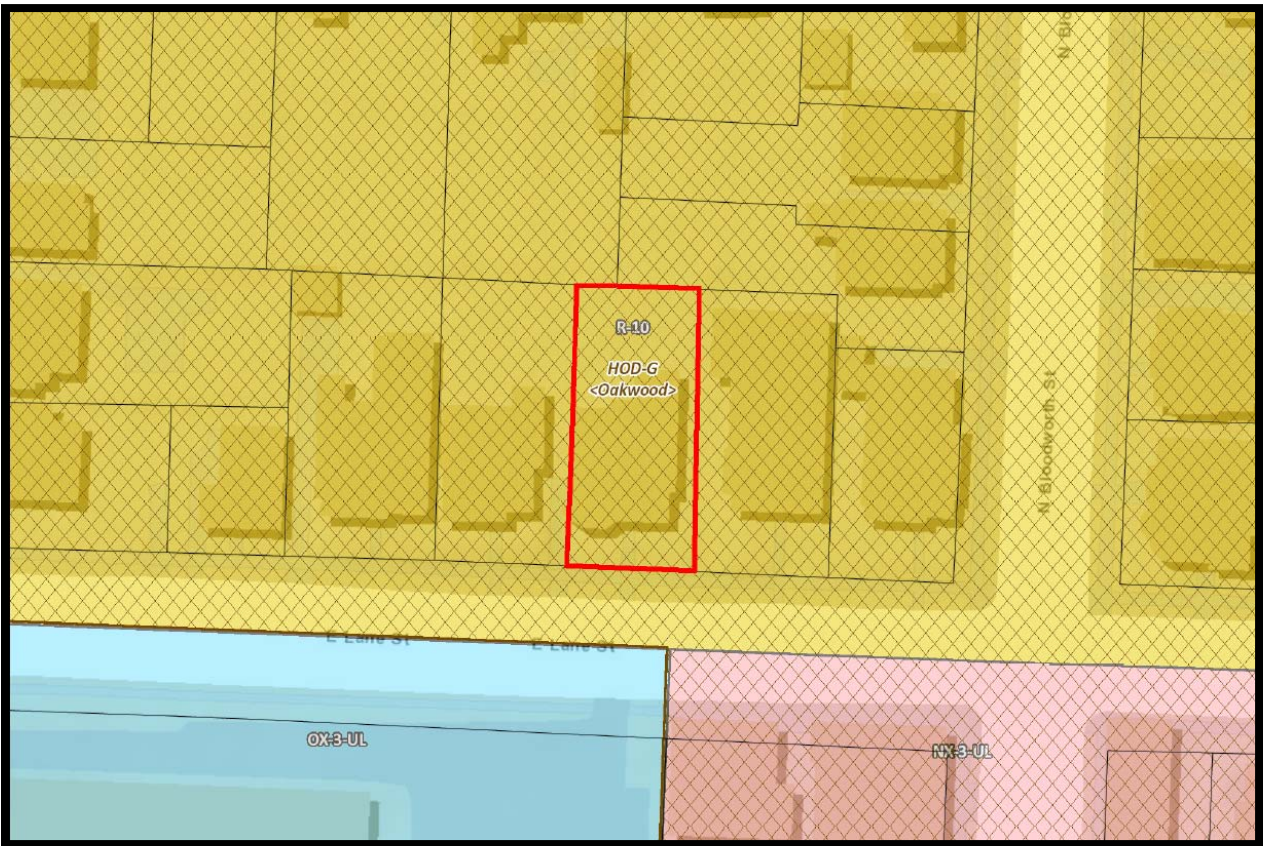
319 E. Lane Street – Location Map

**ADDITIONAL
NOTES:** None

**PREVIOUS
VARIANCES:** None

To BOA: 2-12-18

Staff Coordinator: Eric S. Hodge, AICP



Zoning District: Residential-10 and Historic Overlay District-General

319 E. Lane Street - Zoning Map

R-10	Lot Dimensions
Area (min)	4,000 SF
Width – interior lot (min)	45'
Width – corner lot (min)	60'
Depth -	60'

R-6: Yard Type	Principal Structure Minimum Setback
Primary Street	10'
Side Street	10'
Side	5'
Sum of Sides	10'
Rear	20'
R-6: Yard Type	Accessory Structure Minimum Setback
Primary Street	50'
Side Street	20'
Side	5'
Rear	5'

SHOWINGS: In accordance with UDO §10.2.9 Special Use Permit, before a Special Use Permit request is granted, the Board of Adjustment shall show that all of the following are met:

1. The proposed use complies with all applicable provisions of this UDO unless otherwise expressly modified in accordance with this UDO;
2. The proposed use is allowed as a special use in the respective zoning district (see Chapter 6. Use Regulations);
3. The proposed use complies with any specific use standard listed in Chapter 6. Use Regulations without the granting of any variance to the specific use standard;
4. The proposed use is compatible with adjacent uses in terms of location, scale, site design, hours of operation and operating characteristics;
5. Any adverse impacts resulting from the proposed use in the affected area will be effectively mitigated or offset or the special use is denied;
6. Access with respect to pedestrian, bicycle and automotive safety, traffic flow and emergency service is adequate;
7. Signage is suitable and appropriate; and
8. Any appropriate dedications of streets and utilities to the public will be made prior to the issuance of a building permit.

Section 10.3.2. Nonconforming Uses

A. Authority to Continue

1. Subject to the provisions of this Article or any amortization provision, any lawfully existing nonconforming use may continue in operation on the same land area and on the same floor area of the structure that was occupied by the nonconforming use on the date the use first became a nonconforming use. The continuation of a nonconforming use shall not be constructed to permit an increase in the number of dwelling units or a reduction of land area to the number of dwelling units.
2. Subject to the provisions of this Article or any amortization provision, any lawfully existing nonconforming structure may continue to occupy the same land area within the existing configuration and size of the structure which existed on the date the structure first became a nonconforming structure.

B. Ordinary Repair and Maintenance

Normal maintenance and incidental repair or replacement, installation or relocation of non-bearing walls or non-bearing partitions, adding facilities to improve handicapped accessibility, painting, energy conservation, fencing and landscaping, wiring or plumbing, may be performed on any structure that is devoted in whole or in part to a nonconforming use; provided, however, that this paragraph shall not be deemed to authorize any violation of Sec. 10.3.2.C. through Sec. 10.3.2.G. Expenditures in any amount may be to either bring the nonconformity into full compliance with this UDO or to amortize the nonconformity.

C. Extensions

A nonconforming use shall not be extended, expanded, enlarged or increased in intensity, unless a special use permit is issued by the Board of Adjustment for such extension or expansion. Such prohibited activity shall include, without being limited to:

1. Extension of the use to any structure or land area other than that occupied by the nonconforming use on September 1, 2013, or any amendment to this UDO that causes a use of the property to become otherwise nonconforming.
2. Extension of the use within a building or other structure to any portion of the floor area that was not occupied by the nonconforming use on September 1, 2013, or when an amendment to this UDO causes the use to become otherwise nonconforming.
3. Operation of the nonconforming use in such a manner as to conflict with this UDO, or to further conflict with this UDO, if already conflicting as of September 1, 2013, or any amendments to this UDO is applied to the property, any use limitations established for the district in which the use is located.
4. New construction, reconstruction or structural alteration except those described as ordinary repair and maintenance in Sec. 10.3.2.B. above.
5. Extensions of the use to any new construction, enlargement or additions other than that occupied by the nonconforming use on September 1, 2013, or any amendment to this UDO that causes a use of the property to become otherwise nonconforming.

Sec. 10.3.6. Special Use Permits for Nonconformities**A. Special Use Permit Required**

All special use permits authorized in this section shall be processed, noticed and heard in accordance with Sec. 10.2.9. After the issuance of a special use permit by the Board of Adjustment in accordance with Sec. 10.3.6.B., one or more of the following activities can be made to a zoning nonconformity.

1. Repair and maintenance work not authorized by either *Sec. 10.3.2.B.* or *Sec. 10.3.3.C.*
2. Fixing and replacing damage and destruction authorized by *Sec. 10.3.2.G.1.* and *Sec. 10.3.2.G.3.* and by *Sec. 10.3.3.G.1.* and *Sec. 10.3.3.G.3.b.*
3. The expansion, extension or alteration of a nonconforming use or vehicular surfaces serving a nonconforming use (including nonconforming principal use parking facilities) when all of the following are met:
 - a. The expansion, extension or alteration complies with all requirements of this UDO including but not limited to: height, bulk, setback, off-street parking, impervious surface coverage and access.
 - b. The expansion, of a nonconforming use does not, singularly or collectively, exceed 25% of the total gross area occupied by the original nonconforming use. If the original nonconforming use occupied a portion of a building and that building has not been enlarged since the establishment of the nonconformity, that original nonconforming use may be extended beyond 25% within the interior portions of the building.
4. The change of an existing nonconforming use to another nonconforming use provided that all of the following are met:
 - a. The use will have no greater adverse effect on the surrounding property in terms of automobile or truck traffic, on-street parking, noise, stormwater, vibration and hours of nighttime operation than the existing use.
 - b. Any change to a limited use or special use complies with applicable requirements of *Chapter 6. Use Regulations.*
 - c. The proposed substitute nonconforming use is allowed in the zoning district of the highest classification in which the existing nonconforming use would be a conforming use. The determination of the classification of the use shall be based on Planning and Development Officer.
 - d. Once a nonconforming use is changed to a higher classification, it may not thereafter be changed to a nonconforming use of a lower classification, including a change back to the original nonconforming use.
 - e. The substitution of a nonconforming impervious surface for another, the replacement of a substandard nonconforming manufactured home and the change of use of a nonconforming use to a conforming use may all be done without a special use permit from the Board of Adjustment if the applicable provisions of *Sec. 10.3.4.E.*, *Sec 10.3.3.H.*, *Sec. 10.3.3.C.1.* and *Sec. 10.3.2.B.* are met.
5. The relocation onto its same premise of either a nonconformity or a nonconforming private access point, is allowed; provided the relocation reduces the extent of the nonconformity and more closely conforms to the standards contained in this UDO.
6. The enlargement or alteration of any nonconforming structure used for a conforming use that creates an additional nonconformity or increases the degree of the existing nonconformity is allowed provided the enlargement or alteration of all or any part of such structure, does not exceed, singularly or collectively, 25% of the floor area gross of the original nonconforming structure, and the enlargement or alteration complies with all other requirements and regulations of this UDO.

B. Showings for Granting Special Use Permit for Nonconformities

1. Before a request for the special use permit is granted, the Board of Adjustment must show that all of the following are met:
 - a. The applicable standards of this section have been met;

- b. All of the showings of *Sec. 10.2.9.E.* have been met; and
 - c. The requested repair, reconstruction, expansion, change of use to a different nonconforming use or relocation will not be injurious to property or improvements in the affected area.
2. In acting upon a petition for a special use permit, the Board cannot order the discontinuance or termination of the nonconformity.
3. If a special use petition is denied, the continuation of the nonconformity and the activities allowed in *Sec. 10.3.2.* and *Sec. 10.3.3.* without a special use permit is still allowed unless otherwise prohibited by law. This policy is adopted to encourage the owners of nonconformities to apply for special use permits to improve and bring into conformance to the extent possible their property.

Special Use Permit Application



RALEIGH For Submittal or Data
DEPARTMENT OF
CITY PLANNING



Department of City Planning | 1 Exchange Plaza, Suite 300 | Raleigh, NC 27601 | 919-996-2626

Nature of request (Submit addendum on separate sheet, if more space is needed.) See attached Exhibit A.	OFFICE USE ONLY
	Transaction Number A-14-18
Provide all previous transaction numbers for Coordinated Team Reviews, Due Diligence Sessions or Pre-Submittal Conferences. If this property was the subject of a previous special use permit request, provide the case number.	

GENERAL INFORMATION		
Property Address 319 E. Lane Street		Date January 12, 2018
Property PIN 1704806484	Current Zoning R-10 with Oakwood HOD-G	
Nearest Intersection E. Lane St. and N. Bloodworth St.	Property size (in acres) 0.13 acres	
Property Owner Roger That Roger LLC	Phone	Fax
Owner's Mailing Address 3434 Edwards Mill Road, Suite 112-384, Raleigh, NC 27612-4275		
Email		
Project Contact Person Isabel Worthy Mattox	Phone 919-828-7171	Fax 919-831-1205
Contact's Mailing Address P.O. Box 946, Raleigh, NC 27602		
Email Isabel@mattoxfirm.com		
Property Owner Signature Roger That Roger LLC By:		Name & Title: Roger Austin, Member
Notary Sworn and subscribed before me this <u>11th</u> day of <u>January</u> , 20 <u>18</u>		Notary Signature and Seal

It is improper to contact any member of the Board of Adjustment prior to the disposition of a case to discuss the request. A Special Use Permit Application will not be considered complete until all required submittal components listed on the Special Use Permit Checklist have been received and approved.

EXHIBIT A

To

Special Use Permit Application

319 E. Lane Street

Roger That Roger LLC

Applicant requests a Special Use Permit pursuant to Sections 10.2.9 and 10.3.6 of the Unified Development Ordinance in order to enlarge its existing structure located in R-10 zoning in the Oakwood HOD-G by no more than twenty-five percent (25%). Applicant's current building contains four (4) dwelling units and 3,134 square feet of gross floor area. Applicant proposes to increase the total gross floor area so that the total gross floor area is no more than 3,917 square feet (125% of current gross floor area). The proposed improvements, as shown on the proposed new Site Plans attached as Exhibit A-1 and the proposed elevations attached as Exhibit A-2, will not increase the number of dwelling units. The number of parking spaces will not be changed.

Applicant will submit evidence on which the Showings required by UDO Section 10.2.9.E and 10.3.6.B may be based.

EXHIBIT A-1 - SITE PLANS - 319 E. LANE STREET

LYSAGHT & ASSOCIATES
STRUCTURAL ENGINEERS
120 St. Mary's Street
Raleigh, NC 27605
919.833.0495
lysaghtassociates.com
Firm No. C-0621

319 E. LANE ST. OAKWOOD - RALEIGH, NC
SITE PLANS
OWNER: ROGER AUSTIN

FILE NAME: LA 1810 - 319 E. LANE ST. SITE PLANS
01/04/18
SHEET NO. 51

NOTES

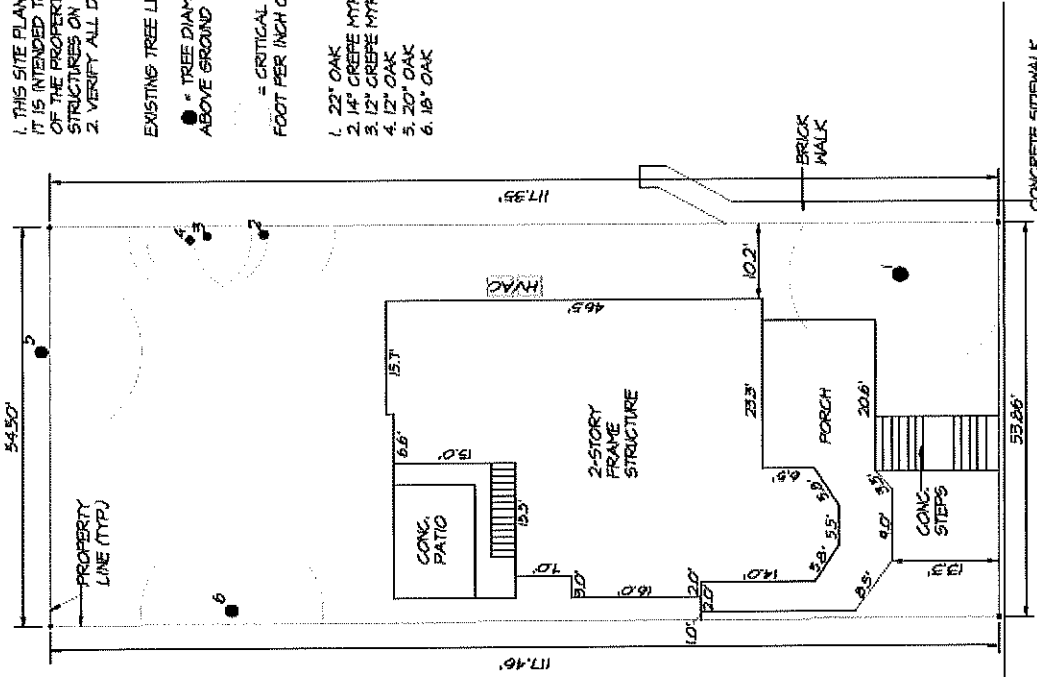
1. THIS SITE PLAN IS NOT A SURVEY. IT IS INTENDED TO SHOW THE LAYOUT OF THE PROPERTY AND RELEVANT STRUCTURES ON THE SITE.
2. VERIFY ALL DIMENSIONS ON SITE.

EXISTING TREE LEGEND:

• TREE DIAMETER AT 4.5' ABOVE GROUND

= CRITICAL ROOT ZONE (1.25 FOOT PER INCH OF TREE DIAMETER).

1. 22" OAK
2. 14" CREPE MYRTLE
3. 12" CREPE MYRTLE
4. 12" OAK
5. 20" OAK
6. 18" OAK



EXISTING SITE PLAN
1/16" SCALE

CURB AND GUTTER

NOTES

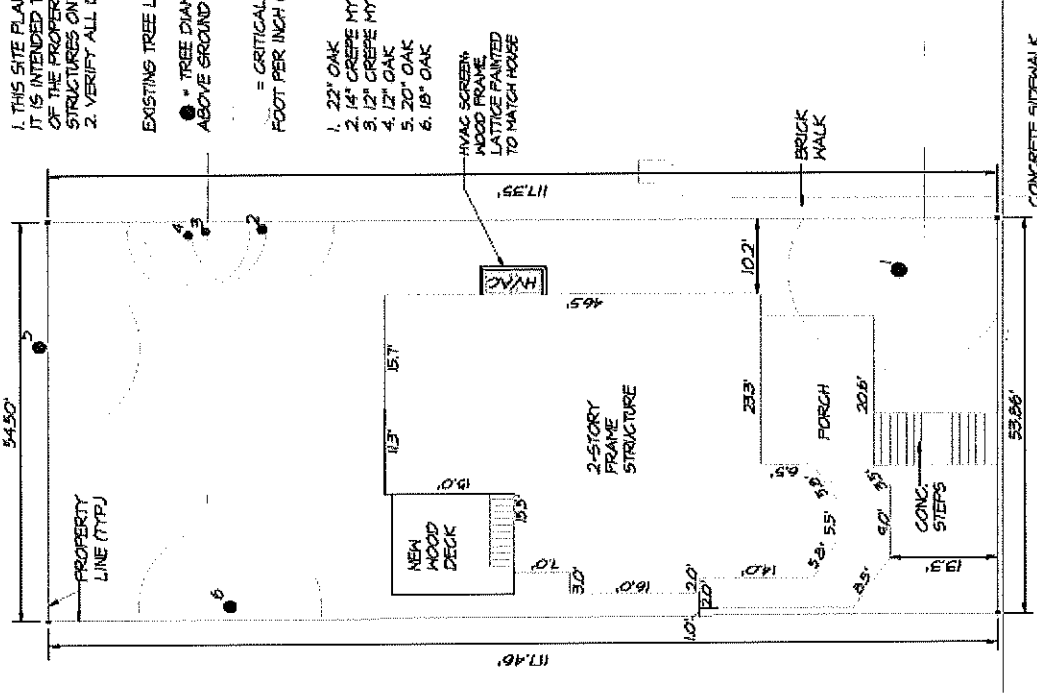
1. THIS SITE PLAN IS NOT A SURVEY. IT IS INTENDED TO SHOW THE LAYOUT OF THE PROPERTY AND RELEVANT STRUCTURES ON THE SITE.
2. VERIFY ALL DIMENSIONS ON SITE.

EXISTING TREE LEGEND:

• TREE DIAMETER AT 4.5' ABOVE GROUND

= CRITICAL ROOT ZONE (1.25 FOOT PER INCH OF TREE DIAMETER).

1. 22" OAK
2. 14" CREPE MYRTLE
3. 12" CREPE MYRTLE
4. 12" OAK
5. 20" OAK
6. 18" OAK



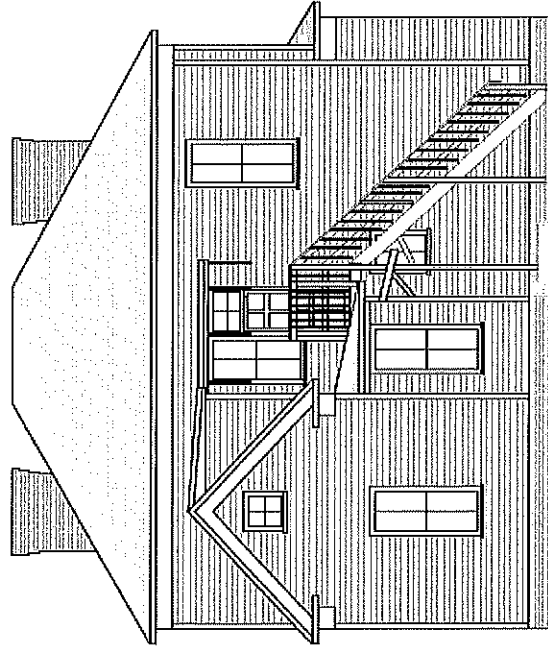
PROPOSED NEW SITE PLAN
1/16" SCALE

CURB AND GUTTER

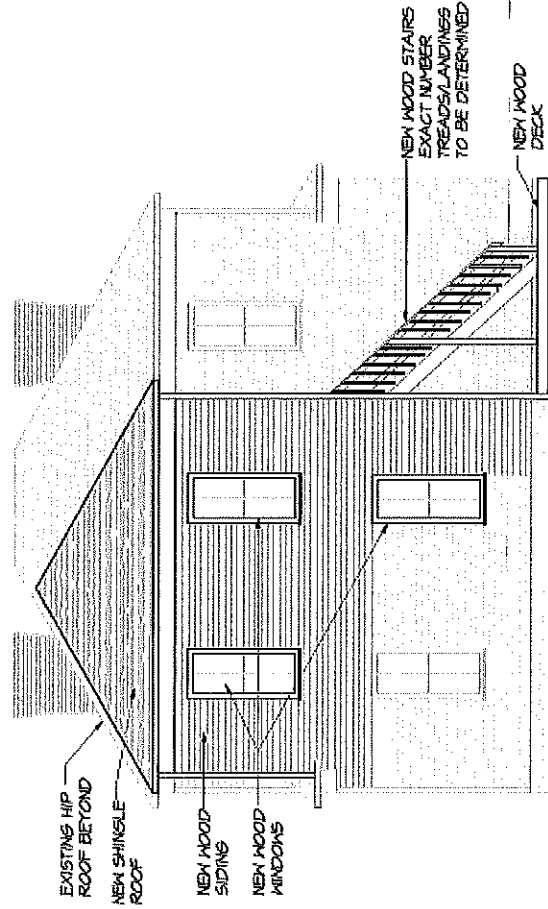
EXHIBIT A-2 (Page 1 of 4) - North Elevation - 319 E. LANE STREET

NOTES:

1. THESE ELEVATIONS ARE FOR THE PURPOSE OF SUBMITTING A SCHEMATIC REPRESENTATION OF EXISTING CONDITIONS. THE DRAWINGS ARE NOT FOR CONSTRUCTION.
2. ALL DIMENSIONS SHALL BE VERIFIED.
3. NEW CONSTRUCTION EXTERIOR MATERIALS SHALL MATCH EXISTING MATERIALS AS CLOSELY AS POSSIBLE INCLUDING: BRICK FOUNDATION WALL, WOOD SIDING AND TRIM, SHINGLE ROOF, AND WOOD WINDOWS.



EXISTING REAR (NORTH) ELEVATION
1/8" SCALE



NEW REAR (NORTH) ELEVATION
1/8" SCALE

EXHIBIT A-2 (Page 2 of 4) - West Elevation - 319 E. LANE STREET

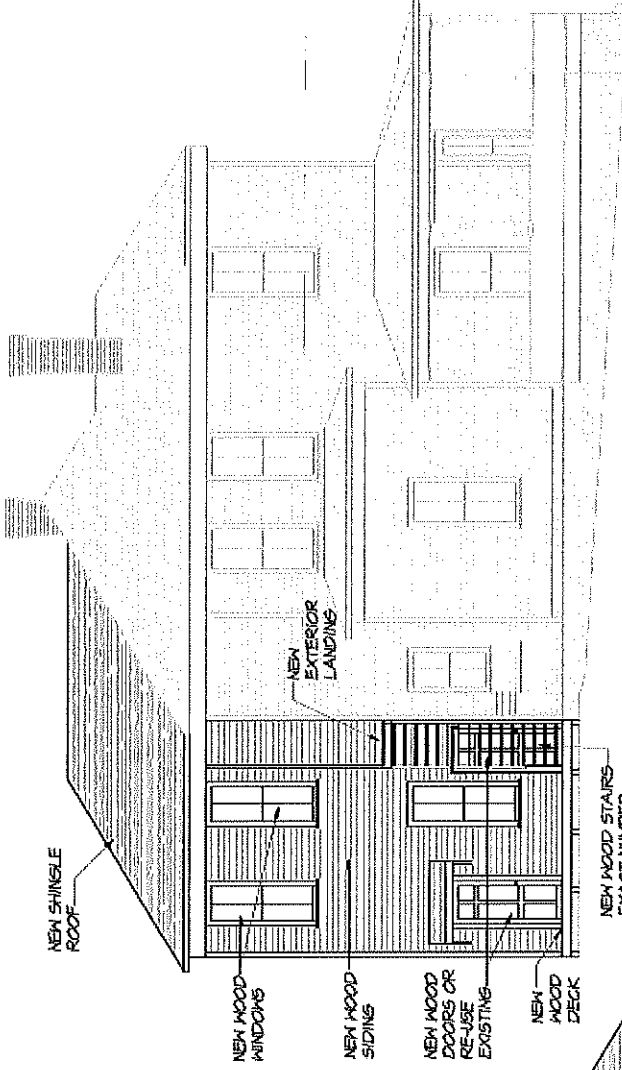
LYSAGHT & ASSOCIATES
STRUCTURAL ENGINEERS
120 St. Mary's Street
Raleigh, NC 27605
919.833.0495
lysaghtassociates.com
Firm No. C-0621

319 E. LANE ST. OAKWOOD - RALEIGH, NC
ELEVATIONS AND ROOF PLANS
OWNER: ROGER AUSTIN

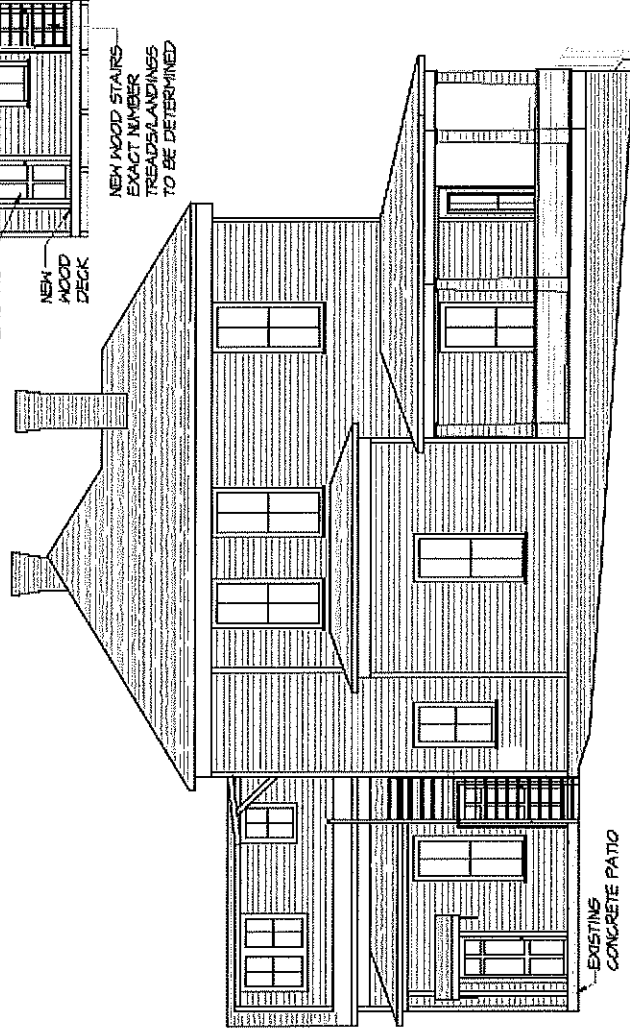
FILE NAME: 319 E. LANE ST.
UPDATED: 01/04/18
SHEET NO. 104

NOTES:

1. THESE ELEVATIONS ARE FOR THE PURPOSE OF SUBMITTING A SCHEMATIC REPRESENTATION OF EXISTING CONDITIONS. THE DRAWINGS ARE NOT FOR CONSTRUCTION.
2. ALL DIMENSIONS SHALL BE VERIFIED.
3. NEW CONSTRUCTION EXTERIOR MATERIALS SHALL MATCH EXISTING MATERIALS AS CLOSELY AS POSSIBLE INCLUDING: BRICK, FOUNDATION WALL, WOOD SIDING AND TRIM, SHINGLE ROOF, AND WOOD WINDOWS.



NEW LEFT SIDE (WEST) ELEVATION
1/8" SCALE

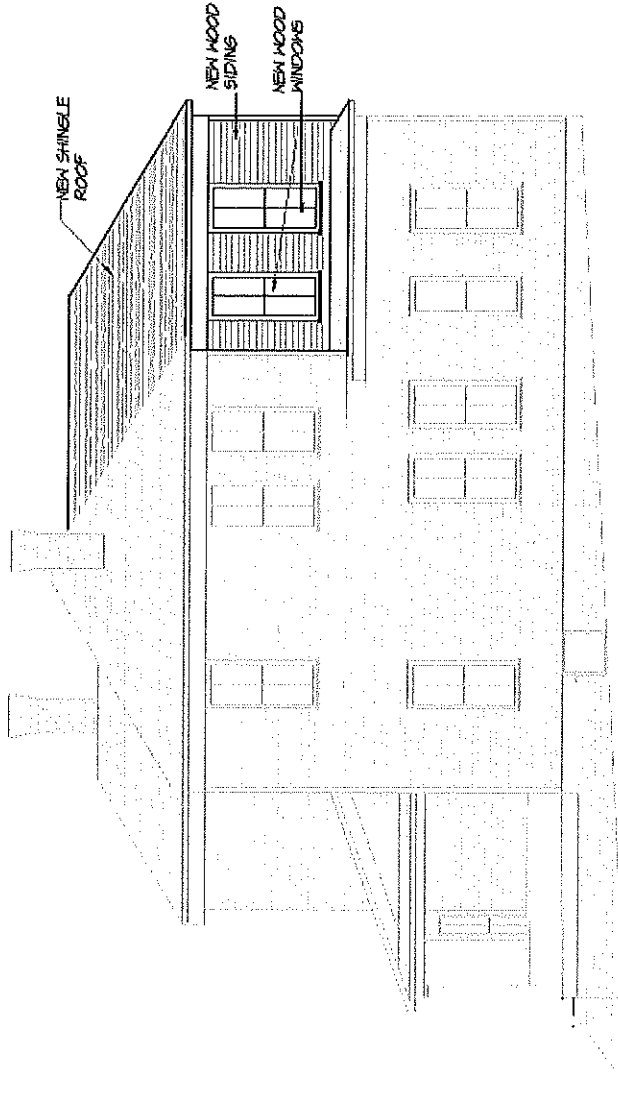


EXISTING LEFT SIDE (WEST) ELEVATION
1/8" SCALE

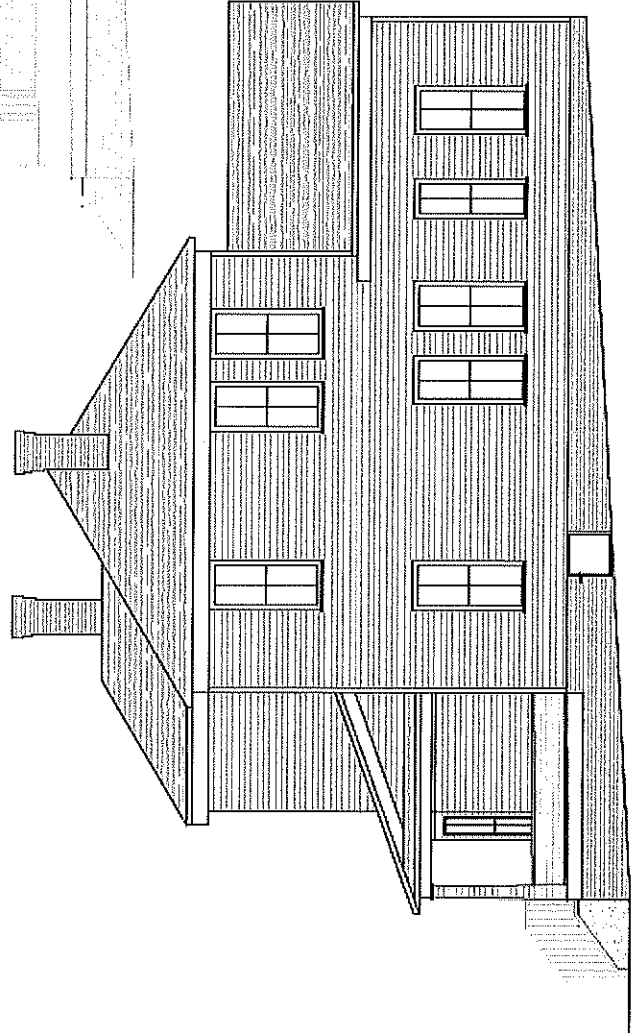
EXHIBIT A-2 (Page 3 of 4) - East Elevation - 319 E. LANE STREET

NOTES:

1. THESE ELEVATIONS ARE FOR THE PURPOSE OF SUBMITTING A SCHEMATIC REPRESENTATION OF EXISTING CONDITIONS. THE DRAWINGS ARE NOT FOR CONSTRUCTION.
2. ALL DIMENSIONS SHALL BE VERIFIED.
3. NEW CONSTRUCTION EXTERIOR MATERIALS SHALL MATCH EXISTING MATERIALS AS CLOSELY AS POSSIBLE INCLUDING: BRICK, FOUNDATION WALL, WOOD SIDING AND TRIM, SHINGLE ROOF, AND WOOD WINDOWS.



NEW RIGHT SIDE (EAST) ELEVATION
1/8" SCALE



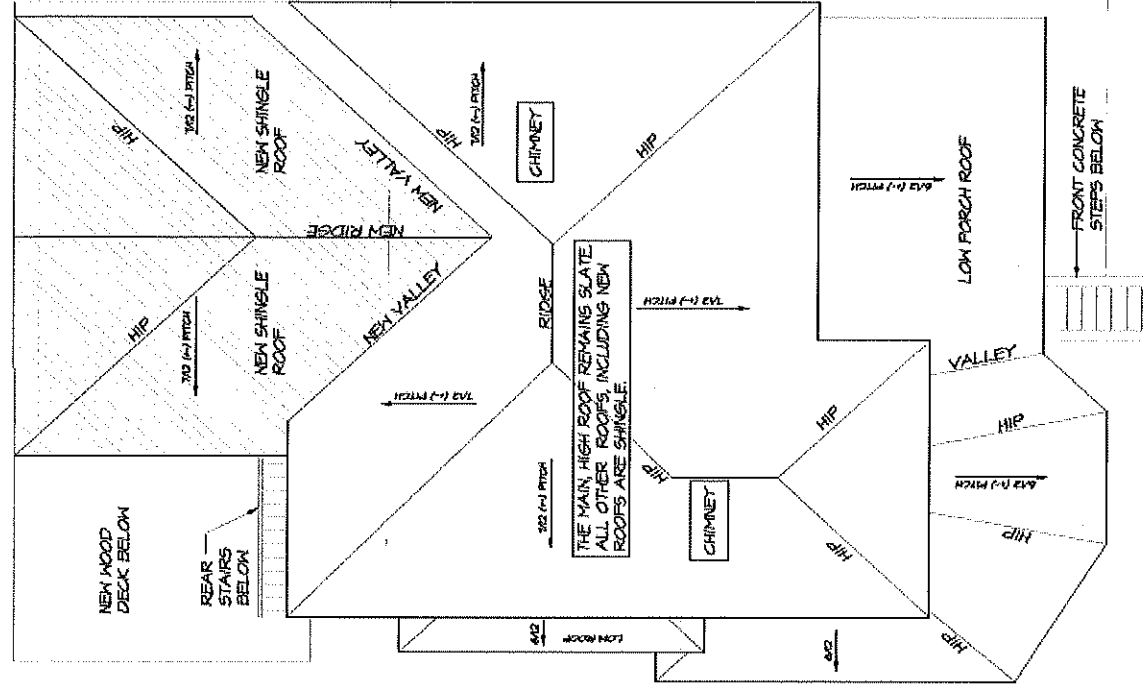
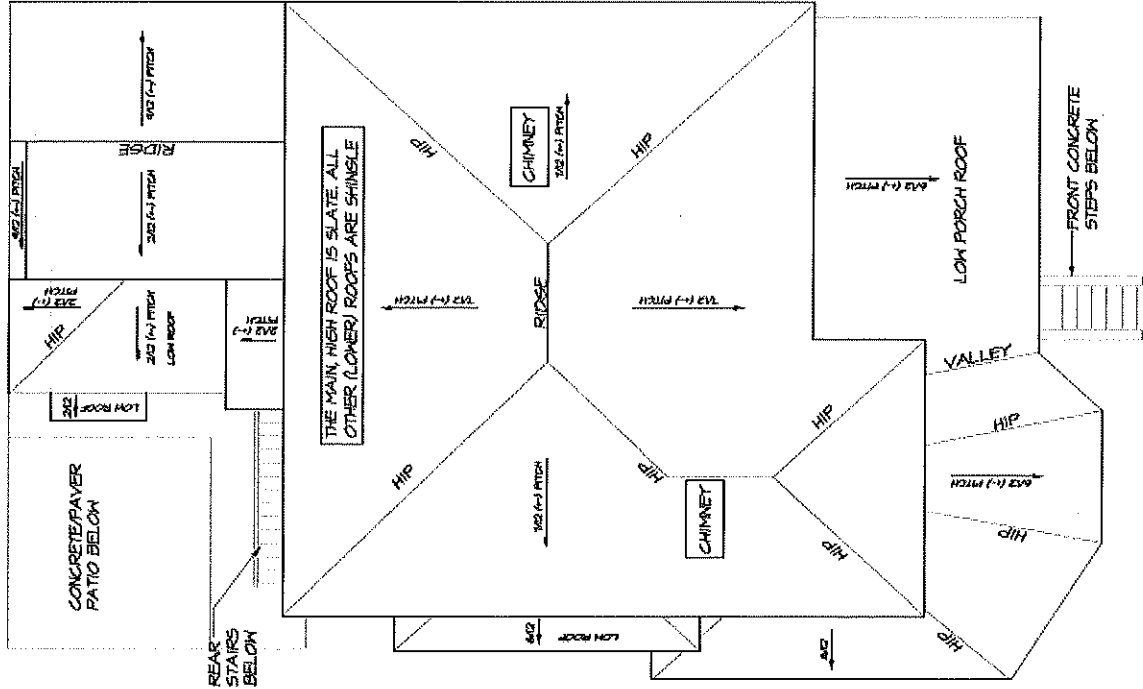
EXISTING RIGHT SIDE (EAST) ELEVATION
1/8" SCALE

EXHIBIT A-2 (Page 4 of 4) - Roof Plan - 319 E. LANE STREET

LYSAGHT & ASSOCIATES
Structural Engineers
120 St. Mary's Street
Raleigh, NC 27605
919.833.0495
lysaghtassociates.com
Firm No. C-0621

319 E. LANE ST. OAKWOOD - RALEIGH, NC
ELEVATIONS AND ROOF PLANS
OWNER: ROGER AUSTIN

FILE NAME: 319 E. LANE ST.
UPDATED: 01/04/18
SHEET NO. 106



1704806484
ROGER THAT ROGER LLC
3434 EDWARDS MILL RD STE 112-384
RALEIGH NC 27612-4275

1704805263
MEDICAL SOC OF THE STATE OF N C
%N C MEDICAL SOCIETY
PO BOX 27167
RALEIGH NC 27611-7167

1704805485
CAPPS, WILLIAM R
313 E LANE ST
RALEIGH NC 27601-1037

1704805680
TAYLOR, APRIL
TAYLOR, JOHN WALLACE
312 OAKWOOD AVE
RALEIGH NC 27601-1063

1704806434
WOOTEN, MARY LUCRETIA
225 N BLOODWORTH ST
RALEIGH NC 27601-1105

1704806559
TWISDALE, JACQUELINE ANN
318 OAKWOOD AVE
RALEIGH NC 27601-1063

1704807259
WOOTEN, MARY LUCRETIA
225 N BLOODWORTH ST
RALEIGH NC 27601-1105

1704807455
BUFORD, ELIZABETH FARRIOR
MATHEWS, DONALD G
321 E LANE ST
RALEIGH NC 27601-1037

1704807493
ANDERSON, MARK M
PO BOX 78
ONECO FL 34264-0078

1704807561
PHILLIPS, ROBERT D
PHILLIPS, KATHY S
2415 FAIRVIEW RD
RALEIGH NC 27608-1325

1704807585
WHITE, KATHERINE RUSSELL
309 N BLOODWORTH ST
RALEIGH NC 27601-1107

1704807622
CINDRIC, MICHAEL A
CINDRIC, SUSAN MARGART
322 OAKWOOD AVE
RALEIGH NC 27601-1063

1704807692
BADER, MATHEW
BADER, MARTHA
326 OAKWOOD AVE
RALEIGH NC 27601-1063

1704807264
NORTH CAROLINA MEDICAL SOCIETY
222 N. PERSON STREET
RALEIGH NC 27601-1067